

**In the High Court for the States of Punjab and Haryana, at
Chandigarh.**

R.S.A.No.1999 of 2007(O&M)
Decided on Sept 21,2007.

Partap Singh and others -- Appellants.

vs.

Ram Kumar and another -- Respondents.

Present: Mr. A.K.Goyal, Advocate, for the appellant

Permod Kohli, J:(Oral)

This Regular Second Appeal is directed against the concurrent findings of fact recorded by both the Courts below.

The plaintiffs/appellants filed a suit for declaration challenging the order dated November 17,1997, passed by the Assistant Collector Ist Grade, Jind; appellate order dated September 15,1998 passed by Collector, District Jind and the order dated September 02, 1967 passed by Assistant Director C/H, Rohtak.

By virtue of these orders, the land in question was declared to be under the ownership of the panchayat. The plaintiffs claim the ownership and possession of the land in dispute and also right of passage over a part

of the land. This fact was disputed by the defendants/respondents. Besides, the right of the plaintiffs to challenge the order was also contested. It was pleaded that the land in question is governed by the Punjab Village Common Lands (Regulation) Act, 1961. Existence of passage is also denied. It was also stated that the order was passed by the Assistant Collector in the presence of the father of the plaintiffs. Jurisdiction of the Civil Court was also disputed.

The trial Court framed as many as 12 issues. The main issue relates to the validity of the order challenged and also claim of the plaintiffs as owners in possession of the shamlat land measuring 3 kanals 1 marla.

While deciding Issue Nos. 1 to 4, the trial Court held that the plaintiffs have failed to prove that they are owners and in possession, though some other issues were decided in favour of the plaintiffs, which relate to the maintainability of the suit before the Civil Court. However, on the final conclusion, the trial Court dismissed the suit finding that the plaintiffs have no title, nor they are in possession vide its judgment and decree dated April 06, 2004. The plaintiffs' appeal against the aforesaid judgment and decree before the Additional District Judge, Jind, also resulted in dismissal in terms of the judgment and decree dated May 26, 2006. The Appellate Court has specifically dealt with the issue of ownership and possession and has recorded a categorical finding that the entries in the jamabandi for the year 1994-95 and subsequent jamabandi for the year 1999-2000 do not support the case of the plaintiffs/appellants as the suit land is recorded in the name of the Gram

Panchayat in these jamabandis.

Both the Courts below have refused to accept the oral evidence led by the plaintiffs in view of the documentary evidence. Learned counsel for the appellants has not been able to show any substantial question of law involved in this appeal. No merit.

This Regular Second Appeal is dismissed in limine.

Sept 21,2007
RR

(Permod Kohli)
Judge